

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:
INTEL CORP. MICROPROCESSOR
ANTITRUST LITIGATION

MDL Docket No. 05-1717-JJF

PHIL PAUL, on behalf of himself and all
others similarly situated,

Plaintiffs,

v.

INTEL CORPORATION,

Defendant.

Civil Action No. 05-485-JJF

CONSOLIDATED ACTION

NOTICE OF SUBPOENA

TO: Counsel of Record
(Per the Attached Service List)

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Federal Rules of Civil Procedure, on June 22, 2006, the attached subpoena was served on NEC Corporation c/o Hirofuma Okuyama, 101 East 52nd Street, 5th Floor, New York, New York 10022 commanding it to produce for inspection and copying on July 24, 2006 the documents identified in Schedule A appended thereto.

Dated: June 23, 2006

PRICKETT, JONES & ELLIOTT, P.A.

/s/ James L. Holzman

James L. Holzman (DE Bar # 663)

J. Clayton Athey (DE Bar #4378)

1310 King Street, Box 1328

Wilmington, DE 19899

(302) 888-6500

jholzman@prickett.com

jcathey@prickett.com

Interim Liaison Counsel for Plaintiffs

Michael D. Hausfeld
Daniel A. Small
Brent W. Landau
Allyson B. Baker
COHEN, MILSTEIN, HAUSFELD & TOLL,
P.L.L.C.
1100 New York Avenue, NW
Suite 500, West Tower
Washington, DC 20005
mhausfeld@cmht.com dsmall@cmht.com
blandau@cmht.com abaker@cmht.com

Michael P. Lehmann
Thomas P. Dove
Alex C. Turan
THE FURTH FIRM, LLP
225 Bush Street, 15th Floor
San Francisco, CA 94104
mplehmann@furth.com
tdove@furth.com
aturan@furth.com

Steve W. Berman
Anthony Shapiro
Craig R. Spiegel
HAGENS BERMAN SOBOL SHAPIRO, LLP
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
steve@hbsslaw.com
tony@hbsslaw.com
craig@hbsslaw.com

Guido Saveri
R. Alexander Saveri
SAVERI & SAVERI, INC.
111 Pine Street, Suite 1700
San Francisco, CA 94111
guido@saveri.com
rick@saveri.com

Co-Lead and Interim Counsel for Plaintiffs

AO 88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the
United States District Court
SOUTHERN DISTRICT OF NEW YORK

SUBPOENA IN A CIVIL CASE

In Re Intel Corp. Microprocessors
 Antitrust Litig.;

Phil Paul, et al.

v.

Intel Corp.

CASE NUMBER: ¹ 05-485-JJF

MDL Docket No. 1717 JJF

United States District Court, District of
 Delaware

To: NEC Corporation
 c/o Hirofuma Okuyama
 101 East 52nd Street, 5th Floor
 New York, New York 10022

- ☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):


See Schedule A

PLACE Cohen, Milstein, Hausfeld & Toll, P.L.L.C. 150 East 52nd Street, Thirtieth Floor New York, NY 10022	DATE AND TIME July 24, 2006 5:00 P.M.
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- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 (Attorney for Plaintiff)	JUNE 22, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
 Allyson B. Baker (202) 408-4600
 Cohen, Milstein, Hausfeld & Toll P.L.L.C.
 1100 New York Avenue, NW, West Tower, Suite 500, Washington, DC 20005

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

¹ If action is pending in district other than district of issuance, state district under case number.

Schedule A

NEC CORPORATION

Definitions

1. For purposes of this document request, "DOCUMENT" includes, without limitation, any hard copy writings and documents as well as electronically stored data-files including email, instant messaging, shared network files, and databases created, accessed, modified or dated on or after January 1, 2000.
2. With respect to electronically stored data, "DOCUMENT" also includes, without limitation, any data on magnetic or optical storage media (*e.g.*, servers, storage area networks, hard drives, backup tapes, CDs, DVDs, thumb/flash drives, floppy disks, or any other type of portable storage device, etc.) stored as an "active" or backup file, in its native format.
3. For purposes of this document request, "MICROPROCESSOR" means general purpose microprocessors using the x86 instruction set (*e.g.*, Sempron, Athlon, Turion, Opteron, Celeron, Pentium, Core, Core Duo and Xeon).
4. For purposes of this document request, "FINANCIAL INDUCEMENT" means any payment, subsidy, rebate, discount (on MICROPROCESSORS or on any other INTEL product), Intel Inside funds, E-CAP (exceptions to corporate approved pricing), Market Development Funds ("MDF"), "meeting competition" or "meet comp" payments, "depo" payments, program monies, or any advertising or pricing support.
5. For purposes of this document request, "COMPANY" refers to NEC CORPORATION and any of its controlled present or former subsidiaries, parents, and predecessor or successor companies.
6. "INTEL" refers to Intel Corporation, Intel Kabushiki Kaisha, and any of their present or former subsidiaries, affiliates, parents, assigns, predecessor or successor companies and divisions thereof.
7. "AMD" refers to Advanced Micro Devices, Inc., AMD International Sales and Service Ltd., and any of their present or former subsidiaries, affiliates, parents, assigns, predecessor or successor companies and divisions thereof.
8. "SKU" means stock keeping unit.
9. For purposes of this request, "COMPUTER SYSTEM" means any product that utilizes a MICROPROCESSOR including, without limitation, desktop computers, notebook computers, and workstations.

Instructions

1. The time period, unless otherwise specified, covered by each request set forth below is from January 1, 2000 up to and including the present.

2. In responding to each request set forth below, please set forth each request in full before each response.

3. If any DOCUMENT covered by these requests is withheld by reason of a claim of privilege, please furnish a list at the time the DOCUMENTS are produced identifying any such DOCUMENT for which the privilege is claimed, together with the following information with respect to any such DOCUMENT withheld: author; recipient; sender; indicated or blind copies; date; general subject matter; basis upon which privilege is claimed and the paragraph of these requests to which such DOCUMENT relates. For each DOCUMENT withheld under a claim that it constitutes or contains attorney work product, also state whether your COMPANY asserts that the DOCUMENT was prepared in anticipation of litigation or for trial.

4. If your COMPANY objects to a request in part, please state specifically which part of the request your COMPANY objects to and produce all DOCUMENTS responsive to all other parts of the request.

5. With respect to any DOCUMENT maintained or stored electronically, please harvest it in a manner that maintains the integrity and readability of all data, including all metadata.

6. Please produce all DOCUMENTS maintained or stored electronically in native, electronic format with all relevant metadata intact and in an appropriate and useable manner (e.g., by copying such data onto a USB 2.0 external hard drive). Encrypted or password-protected DOCUMENTS should be produced in a form permitting them to be reviewed.

7. In connection with your production of DOCUMENTS, please produce any relevant data dictionaries, data translations, lookup tables, and/or any other documentation designed to facilitate use of the data contained within the DOCUMENTS produced.

8. Please organize electronic DOCUMENTS produced for inspection in the same manner that the COMPANY stores them (e.g., if maintained by a custodian, such as email residing on an email server, please organize DOCUMENTS for production by custodian; if maintained in a subfolder of "My Documents" on a custodian's hard drive, please organize DOCUMENTS for production by custodian with path information preserved, etc.).

9. To the extent responsive DOCUMENTS reside on databases and other such systems and files, your COMPANY shall either produce the relevant database in useable form and/or shall permit access for inspection, review, and extraction of responsive information.

10. At your COMPANY's election, DOCUMENTS maintained or stored in paper, hard-copy form can be produced as searchable .PDF (i.e., portable document format files with embedded text) and in an appropriate and useable manner (e.g., by copying such data onto a USB 2.0 external hard drive).

DOCUMENT REQUESTS

1. All DOCUMENTS that Intel and/or AMD have requested in connection with the *In re Intel Corporation Microprocessor Antitrust Litigation*, MDL No. 05-1717-JJF; *Paul v. Intel*, Civil Action No. 05-485-JJF; and *AMD v. Intel*, Civil Action No. 05-441-JJF.

2. For each x86 COMPUTER SYSTEM that you manufacture or market, DOCUMENTS sufficient to identify the (1) product type; (2) brand; and (3) model; (4) components (e.g., CPU, Keyboard, Monitor) and (5) SKU.

Purchase Terms

3. All DOCUMENTS constituting, reflecting, or discussing communications with INTEL concerning your COMPANY's participation in or support of any AMD product launch or promotion, or support of AMD products at any trade show, conference, product launch, promotion or industry meeting.

4. All DOCUMENTS constituting, reflecting, or discussing any offer by INTEL to "meet competition," including all forms relating to "meeting competition."

5. All DOCUMENTS constituting, reflecting, or discussing E-CAP funds.

6. All DOCUMENTS constituting or reflecting any past or present contractual relationship between you and AMD or INTEL.

Purchase and Sales History

7. DOCUMENTS sufficient to show:

- a) Historical purchase volumes by month and type of processor (broken down by units, brand and SKU number); associated prices paid; and all related governing contract(s), for all MICROPROCESSORS purchased from INTEL and AMD since January 1, 2000.
- b) The aggregate amount by month of any payment, subsidy, rebate, discount, Intel Inside funds, E-Cap funds, Market Development Funds, "meeting competition" payments, or any advertising or pricing support provided to your COMPANY in connection with its purchase of MICROPROCESSORS since January 1, 2000 broken down by month and by brand, unit and SKU.
- c) Product road maps for product lines, broken down by computer specification(s) (type of operating system, type of memory, type of hard drive, type of monitor, and any software, other hardware, or warranties factored into the total price of the computer) and type of MICROPROCESSORS (by month) since January 1, 2000.

- d) The use or disposition of any discount, subsidy, or marketing support provided by INTEL in connection with the sale of servers containing INTEL MICROPROCESSORS for the purpose of competing against servers containing AMD MICROPROCESSORS.

8. DOCUMENTS sufficient to show:

- a) The unit and dollar volume of sales and/or leases of COMPUTER SYSTEMS that your COMPANY has made, broken down by (i) month; (ii) the SKUs sold or leased; (iii) COMPUTER SYSTEM specification (including the type of MICROPROCESSOR, type of operating system, type of memory, type of hard drive, type of monitor, and any software, other hardware, or warranties factored into the total price of the computer); (iv) the number of units sold or leased; (v) the price of each sale or lease; (vi) the amount paid for each COMPUTER SYSTEM specification in each sale or lease; (vii) the revenue generated by each sale or lease; (viii) the name and address of the customer to whom the sale or lease was made; (ix) the ship to zip code or zip code of the store location that made the sale or lease; and (x) the date of the sale or lease.

9. DOCUMENTS sufficient to show:

- a) Expected and realized revenue, cost, and profitability broken down by (i) product line; (ii) units; (iii) brand; and (iv) SKU number; and (v) by month since January 1, 2000, **also** broken down to reflect expected and realized revenue, cost, and profitability of component computer parts (including the type of MICROPROCESSOR, type of operating system, type of memory, type of hard drive, type of monitor, and any software, other hardware, or warranties factored into the total price of the computer) per product line, per unit, per brand, per SKU and by month.

Miscellaneous

10. Any and all DOCUMENTS furnished by your COMPANY to the Fair Trade Commission of Japan.

11. All DOCUMENTS constituting, reflecting or discussing any product defects involving INTEL MICROPROCESSORS or INTEL'S inability to deliver or timely deliver an adequate supply of MICROPROCESSORS to your COMPANY.

12. All DOCUMENTS constituting, reflecting, or discussing any monthly or quarterly business review by INTEL and/or between your COMPANY and INTEL.

13. DOCUMENTS showing the date of introduction of every new server and client platform since January 1, 2000 and the number of units manufactured by quarter for the duration of the platform's life.

14. All DOCUMENTS reflecting or concerning any evaluation by you whether to purchase microprocessors from AMD or INTEL (including any evaluation relating to the quantity or timing of such purchase), including, but not limited to, DOCUMENTS discussing or concerning (a) the technical specifications or performance of AMD's or INTEL's microprocessors; (b) the quality or reliability of AMD's or INTEL's microprocessors or systems incorporating those microprocessors; (c) the reliability of INTEL or AMD as suppliers; (d) AMD's or INTEL's ability to supply microprocessors in the quantities that you require or anticipate that you will require; (e) the suitability of AMD's or INTEL's microprocessors for your business objectives; (f) the suitability of INTEL-based or AMD-based platforms for particular customer segments, including, but not limited to, corporate customers; (g) the future roadmap of INTEL or AMD, including, but not limited to, the suitability of future product offerings from the two companies to your needs; (h) actual or expected consumer demand for systems incorporating AMD's or INTEL's microprocessors; (i) the pricing of AMD's or INTEL's microprocessors; (j) negotiations, proposals or demands in connection with the purchase or potential purchase of microprocessors; (k) the availability, capability or price of chipsets or motherboards; (l) the total bill of materials for systems based on INTEL or AMD microprocessors; (m) costs associated with the shifting from the use of one microprocessor to another; or (n) any other reasons influencing your decision to purchase (or not purchase) microprocessors from AMD or INTEL.

15. All DOCUMENTS reflecting or discussing any failure or perceived failure by AMD or INTEL to satisfy any commitment or expectation regarding the sale or supply of microprocessors or any other product or service, including, but not limited to, a failure to meet supply commitments, a failure to supply products of sufficient quality or reliability, a failure to supply products in a timely manner, a failure to supply products that conform to AMD's or INTEL's claims regarding performance or other attributes, or a failure to provide adequate service or support.

16. All DOCUMENTS reflecting or discussing any evaluation of the truthfulness or reliability of claims made by AMD or INTEL regarding the attributes of its microprocessors or systems incorporating its microprocessors.

17. All DOCUMENTS, whether generated internally or received from third parties, discussing or concerning any technological, reliability, quality, or other advancements or improvements in any of your products, including any advancements or improvements in the sale of any of your products, that are attributable to any technological initiative by INTEL or AMD, including, but not limited to, any standard or specification to which INTEL made significant contributions.

18. All DOCUMENTS discussing or concerning the (a) the relative merits of INTEL-based or AMD-based platforms for systems directed at or intended for sale to corporate or business customers and (b) the preference of corporate or business customers for either INTEL or AMD microprocessors or systems incorporating those microprocessors.

19. All DOCUMENTS constituting, reflecting or discussing communications with AMD or INTEL concerning any of the following: (a) any advertising or promotion by you referencing AMD or INTEL; (b) any product launch by you referencing AMD or INTEL; (c)

product roadmaps of INTEL or AMD products; (d) or the terms of any contractual relationship between you and INTEL or AMD.

20. All DOCUMENTS constituting, reflecting or discussing communications with AMD or Intel concerning the above-captioned matter, *AMD v. Intel*, Civil Action No. 05-441 (D. Del.), or any of the allegations about you in AMD's Complaint in that matter, or any other litigation involving AMD and INTEL, or any investigation relating to INTEL by the Fair Trade Commission of Japan or the European Commission.

21. All DOCUMENTS sufficient to show the steps taken by your COMPANY to preserve DOCUMENTS with respect to this litigation or related litigation or proceeding including, without limitation, all DOCUMENTS that constitute, reflect or discuss your COMPANY'S DOCUMENT retention policy or policies from January 1, 2000 to the present.

CERTIFICATE OF SERVICE

I, James L. Holzman, hereby certify that on this 23rd day of June, 2006, I caused the foregoing Notice of Subpoena to be served on the following counsel via electronic filing:

Frederick L. Cottrell, III, Esquire
Chad Michael Shandler, Esquire
Steven J. Fineman, Esquire
Richards, Layton & Finger
One Rodney Square
P.O. Box 551
Wilmington, DE 19899
cottrell@rlf.com
shandler@rlf.com
fineman@rlf.com
Counsel for AMD International Sales & Service LTD and Advanced Micro Devices, Inc.

Adam L. Balick, Esquire
Bifferato Gentilotti Biden & Balick
711 North King Street
Wilmington, DE 19801-3503
abalick@bgbbllaw.com
Counsel for AMD International Sales & Service LTD and Advanced Micro Devices, Inc.

Richard L. Horwitz, Esquire
W. Harding Drane, Jr., Esquire
Potter Anderson & Corroon, LLP
1313 N. Market St., Hercules Plaza, 6th Flr.
P.O. Box 951
Wilmington, DE 19899-0951
rhhorwitz@potteranderson.com
wdrane@potteranderson.com
Counsel for Intel Corporation and Intel Kabushiki Kaisha

Charles P. Diamond, Esquire
Mark A. Samuels, Esquire
Linda J. Smith, Esquire
O'Melveny & Myers LLP
1999 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067
CDiamond@omm.com
MSamuels@omm.com
lsmith@omm.com
Counsel for AMD International Sales & Service LTD and Advanced Micro Devices, Inc.

Laurin Grollman, Esquire
Salem M. Katsh, Esquire
Kasowitz, Benson, Torres & Friedman LLP
1633 Broadway
New York, New York 10019
lgrollman@kasowitz.com
skatsh@kasowitz.com
Counsel for AMD International Sales & Service LTD and Advanced Micro Devices, Inc.

David Mark Balabanian, Esquire
Joy K. Fuyuno, Esquire
Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA 94111-4067
david.balabanian@bingham.com
joy.fuyuno@bingham.com
Counsel for Intel Corporation

<p>Christopher B. Hockett, Esquire Bingham McCutchen LLP Three Embarcadero Center San Francisco, CA 94111 chris.hockett@bingham.com <i>Counsel for Intel Corporation</i></p>	<p>Darren B. Bernhard, Esquire Peter E. Moll, Esquire Howrey LLP 1299 Pennsylvania Ave., N.W. Washington, DC 20004 Bernhardd@howrey.com <i>Counsel for Intel Corporation and Intel Kabushiki Kaisha</i></p>
<p>Daniel S. Floyd, Esquire Gibson, Dunn & Crutcher LLP 333 South Grand Avenue Los Angeles, California 90071-3197 dfloyd@gibsondunn.com <i>Counsel for Intel Corporation</i></p>	<p>B.J. Wade, Esquire Glassman Edwards Wade & Wyatt, P.C. 26 N. Second Street Memphis, TN 38103 bwade@gewwlaw.com <i>Counsel for Cory Wiles</i></p>
<p>Robert E. Cooper, Esquire Gibson, Dunn & Crutcher LLP 333 South Grand Avenue Los Angeles, California 90071-3197 rcooper@gibsondunn.com <i>Counsel for Intel Corporation</i></p>	<p>Nancy L. Fineman, Esquire Cotchett, Pitre, Simon & McCarthy 840 Malcolm Road, Suite 200 Burlingame, CA 94010 nfineman@cpsmlaw.com <i>Counsel for Trotter-Vogel Realty Inc.</i></p>
<p>Donald F. Drummond, Esquire Drummond & Associates One California Street, Suite 300 San Francisco, CA 94111 ballen@drummondlaw.net <i>Counsel for Dressed to Kill Custom Draperies LLC, Jose Juan, Tracy Kinder and Edward Rush</i></p>	<p>Robert D. Goldberg, Esquire Biggs and Battaglia 921 North Orange Street, P.O. Box 1489 Wilmington, DE 19899 goldberg@batlaw.com <i>Counsel for Charles Dupraz, Vanessa Z. DeGeorge, Melissa Goeke, Nancy Bjork, James R. Conley, Jeff Vaught, Jim Kidwell, Richard Caplan, Virginia Deering, Ficor Acquisition Co. LLC, Tom Hobbs, David Kurzman, Leslie March, Andrew Marcus, Paula Nardella, Bill Richards, Maria Pilar Salgado, Ron Terranova, Nancy Wolft Ryan, James Volden and Carl Yamaguchi</i></p>

<p>Donald Chidi Amamgbo, Esquire Amamgbo & Associates, APC 1940 Embarcadero Cove Oakland, CA 94606 donaldamamgbo@citycom.com <i>Counsel for Athan Uwakwe</i></p>	<p>Jeffrey F. Keller, Esquire Jade Butman, Esquire Law Offices of Jeffrey F. Keller 425 Second Street, Suite 500 San Francisco, CA 94107 jkeller@jfkellerlaw.com jbutman@kellergrover.com <i>Counsel for David E. Lipton, Maria I. Prohias, Patricia M. Niehaus, Peter Jon Naigow, Ronld Konieczka, Steve J. Hamilton, Susan Baxley and Kevin Stoltz</i></p>
<p>Gordon Ball, Esquire Ball & Scott 550 W. Main Ave., Suite 750 Knoxville, TN 37902 gball@ballandscott.com <i>Counsel for Andrew Armbrister and Melissa Armbrister</i></p>	<p>Joseph M. Patane, Esquire Law Offices of Joseph M. Patane 2280 Union Street San Francisco, CA 94123 jpatane@tatp.com <i>Counsel for Karol Juskiewicz and Lawrence Lang</i></p>
<p>James Gordon McMillan, III, Esquire Bouchard Margules & Friedlander 222 Delaware Avenue, Suite 1400 Wilmington, DE 19801 jmcmillan@bmf-law.com <i>Counsel for Raphael Allison and Matthew Kravitz</i></p>	<p>Michele C. Jackson, Esquire Lieff Cabraser Heimann & Bernstein, LLP Embarcadero Center West, 275 Battery Street, 30th Floor San Francisco, CA 94111 mjackson@lchb.com <i>Counsel for Huston Frazier, Jeanne Cook Frazier and Brian Weiner</i></p>

<p>A. Zachary Naylor, Esquire Robert Kriner, Jr., Esquire Robert R. Davis, Esquire James R. Malone, Jr., Esquire Chimicles & Tikellis, LLP One Rodney Square, P.O. Box 1035 Wilmington, DE 19899 zacharynaylor@chimicles.com robertkriner@chimicles.com robertdavis@chimicles.com jamesmalone@chimicles.com <i>Counsel for Gideon Elliott, Angel Genese, Nir Goldman, Paul C. Czysz, Elizabeth Bruderle Baran, Carrol Cowan, Russell Dennis, Damon DiMarco, Kathy Ann Chapman, Caresse Harms, JWRE Inc., Leonard Lorenzo, Michael E. Ludt, John Maita, Chrystal Moeller, Robert J. Rainwater, Mary Reeder, Stuart Schupler and Sonia Yaco</i></p>	<p>Harry Shulman, Esquire Robert Mills, Esquire The Mills Law Firm 145 Marina Boulevard San Rafeal, CA 94901 harry@millslawfirm.com deepbluesky341@hotmail.com <i>Counsel for Stuart Munson</i></p>
<p>Ali Oromchian, Esquire Finkelstein, Thompson & Loughran 601 Montgomery Street, Suite 665 San Francisco, CA 94111 ao@ftllaw.com <i>Counsel for Ian Walker, Damon DiMarco, Carrol Cowan, Leonard Lorenzo and Russell Dennis</i></p>	<p>Douglas A. Millen, Esquire Steven A. Kanner, Esquire Much Shelist Freed Denenberg Ament & Rubenstein, P.C. 191 North Wacker Drive, Suite 1800 Chicago, IL 60606 dmillen@muchshelist.com skanner@muchshelist.com <i>Counsel for HP Consulting Services Inc. and Phillip Boeding</i></p>
<p>Vincent J. Esades, Esquire Muria J. Kruger, Esquire Marguerite E. O'Brien, Esquire Heins Mills & Olson, P.L.C. 3550 I.D.S. Center 80 S. Eight Street Minneapolis, MN 55402 vesades@heinsmills.com mkruger@heinsmills.com mobrien@heinsmills.com <i>Counsel for Bergerson & Associates Inc.</i></p>	<p>Garrett D. Blanchfield, Jr., Esquire Mark Reinhardt, Esquire Reinhardt Wendorf & Blanchfield 332 Minnesota Street, Suite E-1250 St. Paul, MN 55101 g.blanchfield@rwblawfirm.com mreinhardt@comcast.net <i>Counsel for Susan Baxley</i></p>

<p>Hollis L. Salzman, Esquire Kellie Safar, Esquire Goodking Labaton Rudoff & Sucharow, LLP 100 Park Avenue New York, NY 10017 hsalzman@labaton.com ksafar@labaton.com <i>Counsel for Angel Genese, Gideon Elliott and Nir Goldman</i></p>	<p>R. Bruce McNew, Esquire Taylor & McNew, LLP 3711 Kennett Pike, Suite 210 Greenville, DE 19807 mcnew@taylormcnew.com <i>Counsel for Robert Marshall</i></p>
<p>Jason S. Kilene, Esquire Daniel E. Gustafson, Esquire Gustafson Gluek PLLC 650 Northstar East, 608 Second Avenue South Minneapolis, MN 55402 jkilene@gustafsongluek.com dgustafson@gustafsongluek.com <i>Counsel for Fiarmon Orthopedics & Sports Medicine PA</i></p>	<p>David Boies, III, Esquire Straus & Boies, LLP 4041 University Drive, 5th Floor Fairfax, VA 22030 dboies@straus-boies.com <i>Counsel for Dressed to Kill Custom Draperies LLC, Jose Juan, Edward Rush and Tracy Kinder</i></p>
<p>Lance A. Harke, Esquire Harke & Clasby 155 S. Miami Avenue Miami, FL 33130 lhake@harkeclasby.com <i>Counsel for Nathaniel Schwartz and Maria I. Prohias</i></p>	<p>Allan Steyer, Esquire Steyer Lowenthal Boodrookas Alvarez & Smith LLP One California Street, Third Floor San Francisco, CA 94111 asteyer@steyerlaw.com <i>Counsel for Cheryl Glick-Salpeter, Jay Salpeter, Jodi Salpeter and Michael H. Roach</i></p>
<p>Bruce J. Wecker, Esquire Hosie McArthur LLP One Market Street Spear Street Tower #2200 San Francisco, CA 94105 bwecker@hosielaw.com <i>Counsel for Dwight E. Dickerson</i></p>	<p>Mario Nunzio Alioto, Esquire Trump Alioto Trump & Prescott LLP 2280 Union Street San Francisco, CA 94123 malimoto@tatp.com <i>Counsel for Karol Juskiewicz and Lawrence Lang</i></p>
<p>Francis O. Scarpulla, Esquire Law Offices of Francis O. Scarpulla 44 Montgomery Street, Suite 3400 San Francisco, CA 94104 foslaw@pacbell.net <i>Counsel for Lazio Family Products, Law Offices of Laurel Stanley, William F. Cronin, Michael Brauch and Andrew Meimes</i></p>	<p>Steven A. Asher, Esquire Robert S. Kitchenoff, Esquire Weinstein Kitchenoff & Asher, LLC 1845 Walnut Street, Suite 1100 Philadelphia, PA 19103 asher@wka-law.com kitchenoff@wka-law.com <i>Counsel for Joseph Samuel Cone</i></p>

<p>Francis A. Bottini, Jr., Esquire Wolf Haldenstein Adler Freeman & Herz 750 B Street, Suite 2770 San Diego, CA 92101 bottini@whafh.com <i>Counsel for Ryan James Volden, Ficor Acquisition Co LLC, Giacobbe-Fritz Fine Art LLC, Andrew Marcus, Bill Richards, Carl Yamaguchi, Charles Dupraz, David Kurzman, James R. Conley, Jeff Vaught, John Matia, Kathy Ann Chapman, Caresse Harms, JWRE Inc., Jim Kidwell, John Maita, Leslie March, Maria Pilar Salgado, Melissa Goeke, Nancy Bjork, Nancy Wolfe, Paula Nardella, Richard Caplan, Ron Terranova, Tom Hobbs, Vanessa Z. DeGeorge, Virginia Deering, Chrystal Moeller, Robert J. Rainwater, Mary Reeder and Sonia Yaco</i></p>	<p>Fred Taylor Isquith, Esquire Adam J. Levitt, Esquire Wolf Haldenstein Adler Freeman & Herz 270 Madison Ave., 11th Floor New York, NY 10016 isquith@whafh.com levitt@whafh.com <i>Counsel for Ryan James Volden, Ficor Acquisition Co LLC, Giacobbe-Fritz Fine Art LLC, Andrew Marcus, Bill Richards, Carl Yamaguchi, Charles Dupraz, David Kurzman, James R. Conley, Jeff Vaught, John Matia, Kathy Ann Chapman, Caresse Harms, JWRE Inc., Jim Kidwell, John Maita, Leslie March, Maria Pilar Salgado, Melissa Goeke, Nancy Bjork, Nancy Wolfe, Paula Nardella, Richard Caplan, Ron Terranova, Tom Hobbs, Vanessa Z. DeGeorge, Virginia Deering, Chrystal Moeller, Robert J. Rainwater, Mary Reeder and Sonia Yaco</i></p>
<p>Edward A. Wallace, Esquire The Wexler Firm LLP One N. LaSalle Street, Suite 2000 Chicago, IL 60602 eawallace@wexlerfirm.com <i>Counsel for Peter Jon Naigow</i></p>	<p>Jeffrey S. Goddess, Esquire Rosenthal, Monhait, Gross & Goddess Mellon Bank Center, Suite 1401 P.O. Box 1070 Wilmington, DE 19899 jgoddess@rmggglaw.com <i>Counsel for Ludy A. Chacon, Joseph Samuel Cone, Darice Russ and Michael K. Simon</i></p>
<p>Jason S. Hartley, Esquire Ross, Dixon & Bell LLP 550 West B Street, Suite 400 San Diego, CA 92101 jhartley@rdbl.com <i>Counsel for Gabriella Herroeder-Perras</i></p>	<p>Craig C. Corbitt, Esquire Zelle, Hofmann, Voelbel, Mason & Gette LLP 44 Montgomery Street, Suite 3400 San Francisco, CA 94104 ccorbitt@zelle.com <i>Counsel for William F. Cronin, Law Offices of Laurel Stanley and Lazio Family Products</i></p>

<p>Scott E. Chambers, Esquire Schmittinger & Rodriguez, P.A. 414 S. State Street P.O. Box 497 Dover, DE 19903 schambers@scbmittrod.com <i>Counsel for David Arnold, Andrew S. Cohn, Jason Craig, Maria Griffin, Lena K. Manyin, Paul Ramos and Michael Ruccolo</i></p>	<p>Reginald Von Terrell, Esquire The Terrell Law Group 223 25th Street Richmond, CA 94804 REGGIET2@aol.com <i>Counsel for Athan Uwakwe</i></p>
<p>Juden Justice Reed, Esquire Schubert & Reed LLP Two Embarcadero Center, Suite 1600 San Francisco, CA 94111 jreed@schubert-reed.com <i>Counsel for Patrick J. Hewson</i></p>	<p>Natalie Finkelman Bennett, Esquire Shepherd, Finkelman, Miller & Shah 65 Main Street Chester, CT 06412-1311 nfinkelman@classactioncounsel.com <i>Counsel for Ludy A. Chacon</i></p>
<p>Russell M. Aoki, Esquire Aoki Sakamoto Grant LLP One Convention Place 701 Pike Street, Suite 1525 Seattle, WA 98101 russ@aoki-sakamoto.com <i>Counsel for Kevin Stoltz</i></p>	<p>Michael L. Kirby, Esquire Kirby Noonan Lance & Hoge LLP One America Plaza 600 West Broadway, Suite 1100 San Diego, CA 92101 mkirby@knlh.com <i>Counsel for Justin Suarez</i></p>
<p>Richard A. Ripley, Esquire Bingham McCutchen 1120 20th Street, NW, Suite 800 Washington, DC 20036 richard.ripley@bingham.com <i>Counsel for Intel Corporation</i></p>	<p>Jeffrey A. Bartos, Esquire Guerrieri, Edmond, Clayman & Bartos, PC 1625 Massachusetts Avenue, NW Washington, DC 20036 jbartos@geclaw.com <i>Counsel for Jose Juan, Dressed to Kill Custom Draperies, LLC, Tracy Kinder and Edward Rush</i></p>
<p>Donald L. Perelman, Esquire Fine Kaplan & Black, RPC 1835 Market Street, 28th Flr Philadelphia, PA 19103 dperelman@finekaplan.com <i>Counsel for Kevin Stoltz</i></p>	<p>Randy R. Renick, Esquire Law Offices of Randy Renick 128 North Fair Oaks Avenue, Suite 204 Pasadena, CA 91103 rrr@renicklaw.com <i>Counsel for Shanghai 1930 Restaurant Partners L.P. and Major League Softball Inc.</i></p>

<p>Daniel Hume, Esquire Kirby McInerney & Squire LLP 830 Third Avenue, 10th Floor New York, NY 10022 dhume@kmslaw.com <i>Counsel for Raphael Allison and Matthew Kravitz</i></p>	<p>Daniel B. Allanoff, Esquire Steven Greenfogel, Esquire Meredith Cohen Greenfogel & Skirnick, P.C. 22nd Floor, Architects Building 117 S. 17th Street Philadelphia, PA 19103 dallanoff@mcgslaw.com sgreenfogel@mcgslaw.com <i>Counsel for Benjamin Allanoff</i></p>
<p>Scott Ames, Esquire Serratore & Ames 9595 Wilshire Blvd., Suite 201 Los Angeles, CA 90212 scott@serratoreames.com <i>Counsel for Major League Softball, Inc.</i></p>	<p>Harvey W. Gurland, Jr., Esquire Duane Morris 200 S. Biscayne Blvd., Suite 3400 Miami, FL 33131 HWGurland@duanemorris.com <i>Counsel for Intel Corporation</i></p>
<p>Douglas G. Thompson, Jr., Esquire Finkelstein, Thompson & Loughran 1050 30th Street N.W. Washington, DC 20007 dgt@ftllaw.com <i>Counsel for Ian Walker, Damon DiMarco, Carrol Cowan, Leonard Lorenzo and Russell Dennis</i></p>	<p>Barbara C. Frankland, Esquire Rex A. Sharp, Esquire Gunderson Sharp & Walke, L.L.P. 4121 W. 83rd St., Ste. 256 Prairie Village, KS 66208 bfrankland@midwest-law.com rsharp@midwest-law.com <i>Counsel for Marvin D. Chance, Jr.</i></p>
<p><u>VIA U.S. MAIL</u></p> <p>Clerk Michael J. Beck Clerk, MDL Judicial Panel One Columbus Circle, N.E. Room G-255, Federal Judiciary Bldg. Washington, DC 20002-8004 <i>Pro Se</i></p>	

/s/ James L. Holzman
James L. Holzman (DE Bar No. 663)